

(2) The permitting authority determines that the permit contains a material mistake or that an inaccurate statement was made in establishing the emissions standards or other terms or conditions of the permit, unless the mistake or statement is corrected in accordance with § 72.83; or

(3) The permitting authority determines that the permit must be revised or revoked to assure compliance with Acid Rain Program requirements.

(b) In reopening an Acid Rain permit for cause, the permitting authority shall issue a draft permit changing the provisions, or adding the requirements, for which the reopening was necessary. The draft permit shall be subject to the requirements of subparts E, F, and G of this part.

(c) As provided in §§ 72.73(b)(1) and 72.74(c)(2), the permitting authority shall reopen an Acid Rain permit to incorporate nitrogen oxides requirements, consistent with part 76 of this chapter.

(d) Any reopening of an Acid Rain permit shall not affect the term of the permit.

[58 FR 3650, Jan. 11, 1993, as amended at 62 FR 55485, Oct. 24, 1997]

Subpart I—Compliance Certification

§ 72.90 Annual compliance certification report.

(a) *Applicability and deadline.* For each calendar year during 1995 through 2005 in which a unit is subject to the Acid Rain emissions limitations, the designated representative of the source at which the unit is located shall submit to the Administrator, within 60 days after the end of the calendar year, an annual compliance certification report for the unit.

(b) *Contents of report.* The designated representative shall include in the annual compliance certification report under paragraph (a) of this section the following elements, in a format prescribed by the Administrator, concerning the unit and the calendar year covered by the report:

(1) Identification of the unit;

(2) For all Phase I units, the information in accordance with §§ 72.91(a) and 72.92(a) of this part;

(3) If the unit is governed by an approved Phase I extension plan, then the information in accordance with § 72.93 of this part;

(4) At the designated representative's option, the total number of allowances to be deducted for the year, using the formula in § 72.95 of this part, and the serial numbers of the allowances that are to be deducted;

(5) At the designated representative's option, for units that share a common stack and whose emissions of sulfur dioxide are not monitored separately or apportioned in accordance with part 75 of this chapter, the percentage of the total number of allowances under paragraph (b)(4) of this section for all such units that is to be deducted from each unit's compliance subaccount; and

(6) The compliance certification under paragraph (c) of this section.

(c) *Annual compliance certification.* In the annual compliance certification report under paragraph (a) of this section, the designated representative shall certify, based on reasonable inquiry of those persons with primary responsibility for operating the source and the affected units at the source in compliance with the Acid Rain Program, whether each affected unit for which the compliance certification is submitted was operated during the calendar year covered by the report in compliance with the requirements of the Acid Rain Program applicable to the unit, including:

(1) Whether the unit was operated in compliance with the applicable Acid Rain emissions limitations, including whether the unit held allowances, as of the allowance transfer deadline, in its compliance subaccount (after accounting for any allowance deductions under § 73.34(c) of this chapter) not less than the unit's total sulfur dioxide emissions during the calendar year covered by the annual report;

(2) Whether the monitoring plan that governs the unit has been maintained to reflect the actual operation and monitoring of the unit and contains all information necessary to attribute monitored emissions to the unit;

(3) Whether all the emissions from the unit, or a group of units (including the unit) using a common stack, were monitored or accounted for through

the missing data procedures and reported in the quarterly monitoring reports, including whether conditionally valid data, as defined in § 72.2, were reported in the quarterly report. If conditionally valid data were reported, the owner or operator shall indicate whether the status of all conditionally valid data has been resolved and all necessary quarterly report resubmissions have been made.

(4) Whether the facts that form the basis for certification of each monitor at the unit or a group of units (including the unit) using a common stack or for using an Acid Rain Program accepted monitoring method or approved alternative monitoring method, if any, has changed; and

(5) If a change is required to be reported under paragraph (c)(4) of this section, specify the nature of the change, the reason for the change, when the change occurred, and how the unit's compliance status was determined subsequent to the change, including what method was used to determine emissions when a change mandated the need for monitor recertification.

[58 FR 3650, Jan. 11, 1993, as amended at 64 FR 28588, May 26, 1999; 70 FR 25334, May 12, 2005]

§ 72.91 Phase I unit adjusted utilization.

(a) *Annual compliance certification report.* The designated representative for each Phase I unit shall include in the annual compliance certification report the unit's adjusted utilization for the calendar year in Phase I covered by the report, calculated as follows:

Adjusted utilization = baseline – actual utilization – plan reductions + compensating generation provided to other units

where:

(1) “Baseline” is as defined in § 72.2 of this part.

(2) “Actual utilization” is the actual annual heat input (in mmBtu) of the unit for the calendar year determined in accordance with part 75 of this chapter.

(3) “Plan reductions” are the reductions in actual utilization, for the calendar year, below the baseline that are

accounted for by an approved reduced utilization plan. The designated representative for the unit shall calculate the “plan reductions” (in mmBtu) using the following formula and converting all values in Kwh to mmBtu using the actual annual average heat rate (Btu/Kwh) of the unit (determined in accordance with part 75 of this chapter) before the employment of any improved unit efficiency measures under an approved plan:

Plan reductions = reduction from energy conservation + reduction from improved unit efficiency improvements + shifts to designated sulfur-free generators + shifts to designated compensating units

where:

(i) “Reduction from energy conservation” is a good faith estimate of the expected kilowatt hour savings during the calendar year from all conservation measures under the reduced utilization plan and the corresponding reduction in heat input (in mmBtu) resulting from those savings. The verified amount of such reduction shall be submitted in accordance with paragraph (b) of this section.

(ii) “Reduction from improved unit efficiency” is a good faith estimate of the expected improvement in heat rate during the calendar year and the corresponding reduction in heat input (in mmBtu) at the Phase I unit as a result of all improved unit efficiency measures under the reduced utilization plan. The verified amount of such reduction shall be submitted in accordance with paragraph (b) of this section.

(iii) “Shifts to designated sulfur-free generators” is the reduction in utilization (in mmBtu), for the calendar year, that is accounted for by all sulfur-free generators designated under the reduced utilization plan in effect for the calendar year. This term equals the sum, for all such generators, of the “shift to sulfur-free generator.” “Shift to sulfur-free generator” shall equal the amount, to the extent documented under paragraph (a)(6) of this section, calculated for each generator using the following formula:

Shift to sulfur-free generator = actual sulfur-free utilization – [(average